

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION**

WILLIAM D. HAMBY, JR)
Plaintiff,)
)
V.) Civil No. 3:17-cv-1480
) Chief Judge Crenshaw/Frensley
TONY PARKER, et al.)
Defendants.)

REPORT AND RECOMMENDATION

Pending before the court is the Plaintiff's Motion for Class Certification/Motion to Add Plaintiff's Suit to Class Action Lawsuit. Docket No. 15. For the reasons stated herein, the undersigned recommends that Mr. Hamby's request for relief be Granted and that the instant action be dismissed based on his agreement to be in the class defined by Chief Judge Crenshaw in *Charles Graham v. Russell L. Davis*, 3:16-cv-1954 (M. D. Tenn.)

Mr. Hamby filed this action and alleged deliberate indifference to serious medical needs based on treatment and medication for Hepatitis C. Docket No. 1. Mr. Hamby was advised he may be included in a present class action, *Charles Graham v. Russell L. Davis, supra*. Docket No. 12. Chief Judge Crenshaw directed the clerk to provide Mr. Hamby with a copy of the Order and Memorandum granting the Plaintiffs' Motion for Class Certification and defining the class in *Graham* so that Mr. Hamby could determine if he was already a member of the defined class. *Id.* Mr. Hamby was advised of his right to opt out of the class and instead proceed on his own in this action and instructed to "communicate his intention to the Magistrate Judge in a timely manner in order for the case to proceed expeditiously." *Id.* Thereafter, Mr. Hamby filed the instant motion requesting that the court "add my suit, and me (Plaintiff) to the class action

suit . . . and for attorneys in that case to be assigned to represent me, as I agree to be in that class action, of same issues." Docket No. 15

Based upon Mr. Hamby's request, the undersigned recommends that this action be dismissed insofar as Mr. Hamby appears to be a member of the class certified by the Court in *Graham* and has specifically indicated his desire to have his claim addressed in that matter rather than opting out and proceeding on his own in this action.

Under Rule 72(b) of the Federal Rules of Civil Procedure, any party has fourteen (14) days from receipt of this Report and Recommendation in which to file any written objections to this Recommendation with the District Court. Any party opposing said objections shall have fourteen (14) days from receipt of any objections filed in this Report in which to file any response to said objections. Failure to file specific objections within fourteen (14) days of receipt of this Report and Recommendation can constitute a waiver of further appeal of this Recommendation. *Thomas v. Arn*, 474 U.S. 140, 106 S.Ct. 466, 88 L.Ed. 2d 435 (1985), *reh'g denied*, 474 U.S. 1111 (1986).



JEFFERY S. FRENSLEY
U. S. District Magistrate Judge